

CAZON

TR 186

- 78 B09

Government
Publications

MINISTRY OF TREASURY, ECONOMICS
AND INTERGOVERNMENTAL AFFAIRS

LOCAL GOVERNMENT DIVISION

BULLETIN NO: 9

THE MUNICIPALITY AND THE LAW

THE HONOURABLE W. DARCY McKEOUGH

TREASURER OF ONTARIO AND
MINISTER OF ECONOMICS AND
INTERGOVERNMENTAL AFFAIRS

RENDALL DICK, Q.C.

DEPUTY TREASURER OF ONTARIO AND
DEPUTY MINISTER OF ECONOMICS
AND INTERGOVERNMENTAL AFFAIRS

JUNE 1978

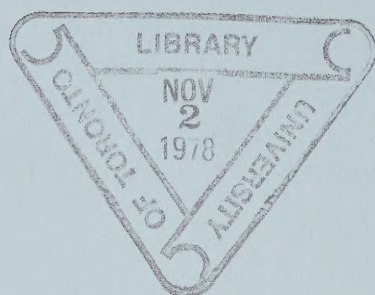


TABLE OF CONTENTS

	<u>PAGE</u>
INTRODUCTION	1
WHAT IS THE LAW?	3
STATUTES	3
REGULATIONS	4
CASE LAW	5
HOW TO START A MUNICIPAL LIBRARY	6
COPIES OF INDIVIDUAL ACTS	7



Digitized by the Internet Archive
in 2024 with funding from
University of Toronto

<https://archive.org/details/31761120623152>

INTRODUCTION

In any discussion of municipal government and the law there are two things that are abundantly clear:

- The Constitution of Canada makes the Provinces directly and solely responsible for the creation of municipal government.
- The Rule of Law requires that all actions take place within the law.

These statements leave no argument over where a municipality gets its authority from; the only source of authority for a local government is the Province, and no municipality can perform any function that is not permissible under Provincial laws.

The question of "power" is intertwined with the question of "responsibility". In the Canadian context it is recognized that those levels of government with recognized responsibilities also have the authority to carry out the responsibilities. Local governments in Ontario have the responsibility for a wide variety of matters, ranging from abbatoirs to zoos, and the authority to see to these responsibilities.

There has been a debate over this question of authority and responsibility. Some municipalities have felt they have certain responsibilities, and therefore the right to carry these out. The other side says that municipalities can carry out only those functions that are within the authority contained within the law. There is usually no real problem because those things recognized as municipal responsibilities are also covered by municipal authority. If there is a problem there is also a clear answer; municipal governments can do only those things that are specifically allowed under the law.

It must be recognized, however, that many explicit powers carry with them implicit powers. As an example, a municipality is required to keep the minutes of its council meetings. There is no specific provision to purchase the paper on which the minutes are kept, but this is obviously an implicit power that is necessary to carry out the explicit duty.

Most legislation dealing with municipal government falls into three basic categories - sections that state the municipality shall; sections that use the word may; and a few sections that state the municipality shall not.

- Shall - an example of this type of legislation is section 215 of The Municipal Act concerning the appointment of the municipal clerk. Since the word "shall" appears, the municipality must do it.
- May - an example of this type of law is section 390 of The Municipal Act, which allows a municipality to provide group insurance for members of council while they are performing municipal duties. This section says it may be done, but doesn't have to be.
- Shall Not - an example is found in section 248 of The Municipal Act, which states that municipalities shall not give bonuses to industries or commercial establishments. This was put into the legislation to stop what had become a rather common practice with municipalities.

In the rare instances where a municipal government finds that it cannot perform a specific action necessary to carry out its role because the law does not permit the action, the municipality can ask for a change in the legislation. Most of the changes involving municipal law come about at the request of the local-government community, usually as a result of suggestions made by municipal associations.

WHAT IS THE LAW?

No municipal government can function properly without some understanding of the law, or without quick access to the statutes that make up much of this law.

The law is complex, but many aspects of it must be understood by the municipal layman. A better understanding is possible with a basic library of the statutes and regulations.

When municipal-government people think of the law, they usually think of these three elements:

- | | |
|-------------|---|
| Statutes | - the acts passed by the Legislative Assembly (Parliament) of Ontario; (Federal acts also apply in some cases) |
| Case Law | - the decisions made by courts concerning the statutes or municipal by-laws or other matters; |
| Regulations | - the rules or procedures or standards for carrying out the statutes (Ministerial Orders and required forms are considered to fall into this category). |

STATUTES

"The statutes" is a phrase used to describe the collection of individual acts. In Ontario, every ten years or so, all but a few of the acts are printed in a series of volumes known as the Revised Statutes of Ontario (R.S.O.). The most recent printing of the R.S.O.'s was in 1970.

It is important for all municipal governments to own, or have easy access to, the most recent printing of the R.S.O.'s. There are many instances where a matter is dealt with in more than one act, and a municipal-government officer needs access to all the acts to try to insure his actions are within the law.

Because the law is constantly changing to meet new circumstances, it is extremely important that each municipality be aware of these changes. A matter that was permitted under a former law may no longer be allowed, and there may be reference now to matters that were not mentioned previously.

Each year all of the acts passed during the year are compiled in a single volume. These annual editions are also useful for each municipality. As well as these annual editions, copies of individual acts are often available as soon as they are passed or altered. These are called office consolidations.

The word "bill" describes a proposed law as it proceeds through the Legislature. The word "act" applies to those laws that have been passed. It is important to remember that not all acts become law immediately after passing through the Legislature. Sometimes it will be several months before the act comes into force.

Many municipalities have found they can keep abreast of changes in the law by getting copies of all the bills presented in the Legislature. Copies of those bills given first reading make the municipality aware of proposed changes, and copies of third readings, of course, show exactly how the law will change. There is usually enough time between first and third readings for municipalities to determine how the bill will affect them, and to voice opinions on the bill. Those who subscribe to the "all-readings" service receive copies regularly while the Legislature is sitting.

Another method of keeping up with changes in the law is through a subscription to the Ontario Statutes Citator, a service provided by a private company. The Citator comes in loose-leaf format so that as changes in the law take place, new pages can easily replace outdated pages. The same company also supplies copies of the current bills before the Legislature.

REGULATIONS

Not all of the law relating to a matter can be found within the statutes, because many acts are accompanied by regulations that describe how activities allowable under the act must be carried

out. These regulations sometimes "extend" the law by setting standards (e.g. building standards). The regulations made under the new Municipal Elections Act establish the forms that must be used.

Every ten years or so the regulations are printed in volumes known as the Revised Regulations of Ontario. There is also a yearly printing of new regulations, similar to the annual volume of the new Acts.

In order to keep up with changes in the regulations, many municipalities subscribe to The Ontario Gazette, where all regulations must be printed. Another method many municipalities have found convenient is the Ontario Regulations Service, a private company that supplies loose-leaf copies of the regulations in much the same format as the Ontario Statute Citator.

CASE LAW

Case law, because it involves interpretation of the law, is best left to a skilled legal practitioner.

HOW TO START A MUNICIPAL LIBRARY

S T A T U T E S	Revised Statutes of Ontario	Queen's Printer 5th Floor Macdonald Block Queen's Park Toronto, Ontario M7A 1N8	\$65
	Statutes of Ontario	"	various prices for each year (1977 was \$13.50)
	Hansard (debates of the Legislature)	"	\$15 per session
	All-readings of Bills	"	\$35 per session
	Third readings of Bills	"	\$15 per session
R E G U L A T I O N S	Ontario Statute Citator - Amendments - Current Weekly Bills Service	Canada Law Book Limited 80 Cowdray Court Agincourt, Ont. M1S 1S5	\$54 yearly (plus \$40 to start) \$39 yearly (plus \$25 to start)
	Revised Regulations of Ontario	Queen's Printer	\$50 (out of print)
	Ontario Gazette	"	\$20 yearly
	Ontario Regulations Service	Carswell Co. Ltd. 2330 Midland Ave. Agincourt, Ont. M1S 1P7	\$80 yearly

COPIES OF INDIVIDUAL ACTS

In addition to a complete, current set of the Statutes and Regulations, many municipal-government officials find it convenient to have individual copies of acts they refer to on a day-to-day basis. These office consolidations are available for many of the acts, and are generally reprinted every year or so to keep them as current as possible. As an example, every municipality should have an office consolidation copy of The Municipal Act, and should get a new one as it is printed.

Examples of office consolidation copies a municipality would find valuable are:

<u>ACT</u>	<u>MOST RECENT PRINTING</u>	<u>COST</u>
The Assessment Act	Jan. 1977	\$2.00
The Cemeteries Act	Mar. 1977	\$2.75
The Community Recreation Centres Act	Jan. 1977	\$0.75
The Conservation Authorities Act	Feb. 1977	\$1.00
The Drainage Act	May 1977	\$1.25
The Education Act	June 1977	\$2.50
The Expropriations Act	Aug. 1976	\$1.50
The Line Fences Act	Apr. 1976	\$1.00
The Local Improvement Act	Oct. 1974	\$2.00
The Municipal Act	Jan. 1977	\$5.00
The Municipal Affairs Act	Dec. 1974	\$1.50
The Municipal Conflict of Interest Act	Mar. 1977	\$0.75
The Municipal Elections Act	Jan. 1978	\$0.75
The Municipal and School Tax Credit and Assist- ance Act	Mar. 1975	\$1.25
The Ontario Municipal Board Act	Sept. 1976	\$1.50
The Ontario Unconditional Grants Act	(Under Revision - Bill 40 now before the House)	

<u>ACT</u>	<u>MOST RECENT PRINTING</u>	<u>COST</u>
The Ontario Water Resources Act	Mar. 1977	\$1.00
The Planning Act	Aug. 1977	\$1.00
The Power Corporation Act	Sept. 1975	\$2.50
The Public Libraries Act	Mar. 1977	\$1.00
The Public Transporta- tion and Highway Improvement Act	Aug. 1973	\$1.50
The Public Utilities Act	Feb. 1972	\$1.00
The Tile Drainage Act	Sept. 1977	\$1.50

Copies of all of these Acts can be purchased in person at:

The Ontario Government Bookstore
880 Bay Street
Toronto, Ontario
M7A 1N3

Copies of the Acts can be ordered by mail from:

Ministry of Government Services
Printing Services Branch
Publications Centre
5th Floor, Macdonald Block
Queen's Park
Toronto, Ontario
M7A 1N8

Do you want more information on this subject? Ask any of the field officers of the Local Government Division. They are located at these addresses:

OTTAWA

244 Rideau Street
Ottawa, Ontario
K1N 5Y3
(613) 232-9446

SUDBURY

1349 Lasalle Boulevard
Sudbury, Ontario
P3A 1Z2
(705) 566-0901

THUNDER BAY

435 James Street South
P.O. Box 5000
Thunder Bay, Ontario
P7C 5G6
(807) 475-1621

LONDON

495 Richmond Street
London, Ontario
N6A 5A9
(519) 438-7255

ORILLIA

15B Matchedash Street North
Orillia, Ontario
L3V 4T4
(705) 325-6144

Additional copies of this bulletin are available at \$0.50 per copy, prepaid, from:

Ontario Government Bookstore
880 Bay Street
Toronto, Ontario
M7A 1N8

Please make cheques payable to the Treasurer of Ontario.

